GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - East Godavari District - Revision Petition filed by Smt Nidasanametla Venkata Ramanamma, W/o.N.V.Seetharamayya R/o.Govt.Hospital Road, Agraharam, Peddapuram, E.G.District against the orders of Agent to Government, East Godavari District in CMA No.9/96 dt.25.08.2001 in respect of land in adm.Ac.15.84 cts in Sy.No.64, Ac.14.50 cts in S.No.37 of Donepalem (V), Gangavaram Mandal, E.G.District – Partly Allowed - Remanded to Primary authority i.e., SDC (TW) Rampachodavaram for enquiry afresh according to law- Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 52 Dated: 27-04-2016

Read the following:-

1. Revision Petition filed by Smt Nidasanametla Venkata Ramanamma, W/o.N.V.Seetharamayya R/o.Govt.Hospital Road, Agraharam, Peddapuram, E.G.District dated:12.12.2003.
2. Govt.Lr.No.6989/LTR-2/2004, dt.04.7.2004.
3. From the Collector & District Magistrate, Kakinada, East Godavari District No.F2/5412/2004, dt.26.08.2004.
4. Govt.Lr.No.6989/LTR-2/2004, dt.26.5.2015.

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ORDER:-

In the reference first read above, Smt Nidasanametla Venkata Ramanamma, W/o.N.V.Seetharamayya R/o.Govt.Hospital Road, Agraharam, Peddapuram, E.G.District has filed a Revision Petition before the Government against the orders of the Agent to Government, Kakinada, East Godavari District in CMA No.9/96 dt.12.12.2003 2003 in respect of land in adm.Ac.15.84 cts in Sy.No.64, Ac.14.50 cts in S.No.37 of Donepalem (V), Gangavaram Mandal, E.G.District.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Collector , East Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Collector & District Magistrate, Kakinada, East Godavari District has furnished parawise remarks along with the connected records.

4.The facts of the case in brief are:

The Special Deputy Collector cum Agency Divisional Officer, Rampachodavaram by his orders in LTRP No.11/1996, dated 27.02.1996 has held that the land measuring and extent of Ac.15.84 cts of land in Sy.No.64 can be enjoyed by the Respondents namely Avasarala Seetharamayya, Alladi Kameswaramma and Nidesenametla Venkataramanamma. But he has held that the land measuring an extent of Ac.14.50 cts of land in sy.No.37 situated at Donepalem village, Gangavaram mandal, East Godaari district be left for the enjoyment of Petitioners therein ie., Kozam Parvathi, Ballem Pentaiah, Ballem Mallamma, Sarapu Suryarao.

5. Aggrieved by the same the respondents therein filed appeal before the Agent to Government questioning the said orders of Special Deputy Collector (Tribal Welfare) and the same was dismissed in CMA No.9/1996, holding that the appellants could not produce any evidence despite having been given opportunity to produce documents in proof of their right. Aggrieved by the same Revision before the Government.

6. The point for consideration is whether the order of Agent to Government who dismissed the appeal filed by the Revision Petitioner herein, by confirming the orders passed by the learned Deputy Collector (Tribal Welfare) is sustainable or not.

(P.T.O.)

7. The Revision Petitioner filed Xerox copy of sale in respect of the subject land in favour of Shaik Abudullah Saheb on 11.07.1941 by Deputy Collector. And also a Xerox copy of registered sale deed dated 27.04.1943, where by the subject land was sold in favour of Nidanametla Venkataramanamma W/o.Sheshaiah by Shaik Abdullah Saheb and true copy of patta pass book issued under A.P. ROR Act, 1971 in the name of the LRs of said Venkataramanamma ie., Nidasanametla Venkata Seetharamaiah.

8. These documents are public documents and the orders of both the Special Deputy Collector (Tribal Welfare) and Agent to Government did not consider the same. The Revision Petitioner contends that they were condemned unheard and the documents filed by them were not considered and thus principles of natural justice were violated.

9. Even though the same are not filed they being public document, the learned Special Deputy Collector should have examined revenue records which disclose the fact that the subject land is under the title and possession of petitioner.

10. The order of the Special Deputy Collector and Agent to Government are not sustainable as the crucial aspect with regard to the right title and possession on subject land measuring extent Ac.14.56 cts in Sy.No.37, were not correctly examined. The sale between the two non-tribes in the year 1943 is valid even under Agency tracts interest and land Transfer Act 1917.

11. The above Revision Petition having been stood over for consideration till 13.06.2015 before the Government and the matter having been heard in presence of both parties on 13.06.2015 the Government passes the following orders:

12. A non-tribe who does not have a valid title under a document or patta or a grant under any act is not entitled to continue in possession and hence if he found to be in possession of a schedule land in agency area is liable to ejected and the opportunity given to him is sufficient as per the provisions of the said regulation, further there is a presumption under Section 3 against such non-tribe and hence the concurrent findings of facts by the learned Special Deputy Collector and Additional Agent to Government are not correct and the same are liable to be interfered with so far as subject land of Ac.14.56 cts in Sy.No.37 is concerned, but the Government is of opinion that the said copies though appear to be true copies the genuiness or otherwise of the same is to be examined.

13. The contention of the learned Advocate that there is no prohibited transfer in the instant case and that the land in question was recorded as the personal property of Revision Petitioner in the Government records could be true, if the above referred documents filed before Revision authority (Government) along with written arguments are the certified copies of the originals and they are all the public record and hence they cannot be disregarded and the orders of both Special Deputy Collector and Agent to Government did not examine the correct title and right of parties with reference to subject land even through the orders are too lengthy. The Government is of considered opinion that the orders of above lower authorities cannot be sustained when such important public record concerning the schedule land is not at all examined.

14. Yet, without confirming the truth and genuiness of the said documents it is not desirable to confirm the right and title of Revision Petitioner in respect of subject land.

15. Therefore the orders of the Special Deputy Collector and Agent to Government are set aside as they are undoubtedly erroneous and passed without examining the right title and the possession of the parties in respect of subject land.

16. In the result the Revision Petition is allowed in part, and the matter is remanded to the primary authority for enquiry afresh, directing the Special Deputy Collector (Tribal Welfare) Rampachodavaram to examine the documents mainly the sale certificate dated 11.07.1941 of Deputy Collector in favour of Shaik Abdullah Sahaib and the sale deed dated 27.04.1947 in favour of N.Venkatramanamma and other relevant records concerning subject land and pass orders according to law by giving opportunity to both the parties and dispose of the same in a period of two months from the date of receipt of this order.

(P.T.O)

17. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

18. The original record bearing No.CMA No.9/1996 received from the Additional Agent to Government, Rampachodavaram, East Godavari District, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.SOLOMON AROKIARAJ,
SPECIAL CHIEF SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, (Tribal Welfare) Rampachodavaram, East Godavari District.
Copy to:
Sri E.S.R.Prasad, Advocate, H.No.3-97/A, Road No.15, Snehapuri Colony, Hyderabad -500 035, Rangareddy District.
Smt Nidasanametla Venkata Ramanamma, W/o.N.V.Seetharamayya R/o.Govt.Hospital Road, Agraharam, Peddapuram, East Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER